

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19634
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On February 22, 2006, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) [Redacted](petitioner) proposing additional income tax, penalty, and interest for tax year 2002 in the total amount of \$1,203.

On April 24, 2006, a timely protest and petition for redetermination was filed by the petitioner. The petitioner has not requested a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The petitioner was issued a NOD by the Commission [Redacted] of her income. [Redacted] In the petitioner's protest letter dated April 24, 2006, she requested the penalty and interest be abated. The petitioner claimed that she was still working with the IRS on this issue. The petitioner claimed that \$10,683 of the debt was discharged in 2001 and should have been taxed in that year. The petitioner claimed no knowledge of the remaining \$5,099 and argued that she should not be held responsible for it. The petitioner requested a payment arrangement in her protest letter.

On September 12, 2006, the Tax Policy Specialist (policy specialist) sent the petitioner a letter to inform her of the alternatives for redetermining a protested NOD. The petitioner did not respond to this letter.

In a letter dated June 9, 2005, to the IRS, the petitioner stated that she had sent documentation to the IRS that the credit union charged off her account in December 2001. A

creditor can write off a debt in its records and still pursue collection of that debt. The debt is discharged only when a creditor discontinues collection activity and cancels the debt. At that time the creditor would issue a 1099-C.

Idaho Code § 63-3002 states it is the intent of the Idaho Legislature to make the Idaho Code identical to the Internal Revenue Code in the way taxable income is determined. Idaho Code § 63-3069 states that upon a final determination of any deficiency or refund of federal taxes, written notice shall be immediately sent to the State Tax Commission by a taxpayer. IDAPA 35.01.01.890.03 Income Tax Administrative Rule states that immediate written notification is required within 60 days of the final determination.

From the cited Idaho Code sections and the Administrative Rule, it is apparent the Idaho Legislature intended any changes made to a taxpayer's federal return should be reflected on the taxpayer's Idaho return. Therefore, it is the Commission's position that the changes made to the taxpayer's federal return must be made to the taxpayer's state return.

Following the Idaho Code, the adjustments should be made to the petitioner's Idaho income tax return. The petitioner carries the burden to prove the adjustments were incorrect. [Redacted]The Idaho Supreme Court in hearing Union Pacific Railroad Company v. State Tax Commission, 105 Idaho 471, 670 P.2d 878 (1983), addressed whether the taxpayer was required to pay interest; the Court said:

The general rule is that absent statutory authorization, courts have no power to remit interest imposed by statute on a tax deficiency. *American Airlines, Inc. v. City of St. Louis*, 368 S.W.2d 161 (Mo. 1963); see generally 85 C.J.S. Taxation, § 1031(c) (1954). We agree with the State that I.C. § 63-3045(c) is clear and unequivocal when it states that 'interest . . . shall be assessed' and 'shall be collected.' This section is not discretionary, but rather, it is mandatory. Following the language of this section we hold that this Court, as well as the district court, lacks any power to remit the interest that is mandated by the statute. Therefore, as to the

interest issue we reverse with directions for the trial court to award interest from 1942.

Finally, the petitioner has objected to the imposition of the negligence penalty. The Commission, in its discretion, agrees to abate the penalty in this case.

Since the petitioner has not provided the Commission with a contrary result [Redacted]original redetermination, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination February 22, 2006, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$982	\$0	\$256	\$1,238

Interest is computed through August 21, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner’s right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2007 , served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.

[Redacted]
